

Docket No.: NHL-HOL-63
Serial No.: 10/723,451
Customer No.: 00432

REMARKS

The Office Action dated August 24, 2005, has been reviewed in detail and the application has been amended in the sincere effort to place the same in condition for allowance. Reconsideration of the application and allowance in its amended form are requested based on the following remarks.

Applicants retain the right to pursue broader claims under 35 U.S.C. §120.

Applicants have provided a unique solution with respect to problems regarding BEVERAGE BOTTLING PLANT FOR FILLING BEVERAGE BOTTLES OR OTHER BEVERAGE CONTAINERS WITH A LIQUID BEVERAGE FILLING MATERIAL AND AN ARRANGEMENT FOR DIVIDING AND SEPARATING OF A STREAM OF BEVERAGE BOTTLES OR OTHER BEVERAGE CONTAINERS. Applicants' solution is now claimed in a manner that satisfies the requirements of 35 U.S.C. §102 and 103.

Telephonic Interview:

The undersigned would like to sincerely thank the Examiner for the courtesies extended during a telephonic interview between the Examiner and the undersigned on May 22, 2006. During the telephonic interview, Claims 13 and 14 were primarily discussed. At

Docket No.: NHL-HOL-63
Serial No.: 10/723,451
Customer No.: 00432

that time distinctions of the present invention as claimed in Claims 13 and 14 were pointed out by the undersigned that distinguished over the applied prior art.

An official agreement was not reached between the Examiner and the undersigned as to the allowability of Claims 13 or 14 over the applied prior art. However, the Examiner indicated that if arguments similar to what were discussed in the interview were presented in an amendment, they would most likely receive favorable consideration. Accordingly, Claim 14 has been amended herein in independent form and to include the limitations of its base claim and any intervening claims, that is, Claims 12 and 13. Arguments in support of the allowability of Claim 14 over the applied prior art are presented herein below.

The telephonic interview is further summarized below in the section entitled "Recordation of the Substance of the Telephonic Interview."

Rejection of Claims 12-14 and 20 Under 35 U.S.C. §102:

Claims 12-14 and 20 were rejected under 35 U.S.C. §102, as being unpatentable over Vamvakas (US 3552537). Claims 12-13 have been canceled herein, without prejudice, and the subject matter thereof incorporated into new independent Claim 14. Claim 20 has

been amended to depend from Claim 14 since the claim from which Claim 20 depends, that is, Claim 12, has been canceled. Claim 20 also has been amended to remove redundant claim language already set forth in amended Claim 14. It is therefore respectfully submitted that no new matter has been added or entered and no new issues have been raised by this amendment.

As understood, Vamvakas shows a conveyor system for controlling the flow of containers. The conveyor system essentially comprises an infeed conveyor 10, two conveyors 22 and 23, a median gap 31 with a center rail 32, a divider plow 36, and two discharge conveyors 47 and 48. The conveyors 22 and 23 are disposed parallel to one another throughout their entire length. The conveyor 22 moves at a slower linear speed than the conveyor 23 in order to break up the jamming or clustering of containers. As containers are fed at a substantial volume into the conveyor system via the infeed conveyor 10, the center rail 32 emerges and projects from the median gap 31, causing bottles to move toward either the slower conveyor 22 or the faster conveyor 23. In addition, the conveyors 22, 23 can be tilted slightly to have an outward slope, as shown in Figs. 4 and 5. By the combined efforts of the center rail 32 and the tilting of the conveyors 22, 23, the containers are thereby

Docket No.: NHL-HOL-63
Serial No.: 10/723,451
Customer No.: 00432

moved onto either the slower conveyor 22 or the faster conveyor 23. Any containers which ride the center rail 32 without moving towards either the slower conveyor 22 or the faster conveyor 23 will eventually run into the divider plow 36, where the containers will then be guided, based on their position on the center rail 32, towards either the slower conveyor 22 or the faster conveyor 23. Once containers have been positioned onto either the slower conveyor 22 or the faster conveyor 23, they are moved in a single file line toward their respective discharge conveyors 47 and 48. As understood, Vamvakas shows two conveyors that are parallel to each other, and remain parallel throughout their entire length.

In contrast to Vamvakas, Claim 14 recites, in part:

"said first conveyor structure comprises a first portion disposed adjacent said input configured to receive an input stream of containers and a second portion disposed adjacent said first output being configured to discharge a first output stream of containers;

said second conveyor structure comprises a first portion disposed adjacent said input configured to receive an input stream of containers and a second portion disposed adjacent said second output being configured to discharge a second output stream of containers;

said second portion of said first conveyor structure and said second portion of said second conveyor structure being disposed to diverge from one another at a point of divergence;

said guide structure is disposed between said point of divergence and said first and second outputs to permit separation of the first stream of containers into the first output stream of containers and into the second output stream of containers;

said guide structure comprises a tip portion;
said second portion of said first conveyer structure and
said second portion of said second conveyer structure are
disposed at an angle with respect to one another to separate
the first output stream of containers from the second output
stream of containers; and

said second portion of said first conveyer structure and
said second portion of said second conveyer structure diverge
from one another anteriorly of said tip portion of said guide
structure."

Vamvakas, as understood, does not teach or suggest a
conveyor structure with the features recited in Claim 14. As
understood, Vamvakas shows two conveyors that are parallel to one
another, and remain parallel to one another throughout their entire
length, not two conveyor structures that are disposed to diverge from
one another. Vamvakas does not show that the two conveyors
diverge from one another at an angle at a point of divergence in
order to separate containers. In addition, Vamvakas does not teach
or suggest that the two conveyors are disposed to diverge at an
angle from one another after divergence, in order to separate
containers.

In the Office Action, the Examiner asserts that Vanvakas shows
first and second conveyors that are physically separate from each
other and have different endpoints, and are therefore considered by
the Examiner as being diverging. However, it is respectfully
submitted that such an interpretation of the terms "diverge" or

Docket No.: NHL-HOL-63
Serial No.: 10/723,451
Customer No.: 00432

"diverging" or "divergence" is incorrect as not being in accordance with the generally agreed upon meanings of these terms. According to Webster's Third New International Dictionary (Unabridged), © 1986, published by Merriam-Webster Inc., the term "diverge" means "to move or extend in different directions from a common point : draw apart." The term "divergence" means "a drawing apart (as of lines extending from a common center)." The American Heritage Dictionary of the English Language, Fourth Edition, © 2000, published by Houghton Mifflin Company, agrees with these definitions, in that it defines "diverge" as meaning "to go or extend in different directions from a common point; branch out." Finally, the WordNet 2.0 dictionary, © 2003, published by Princeton University defines "diverge" as meaning "move or draw apart." Copies of these references are supplied herewith.

According to these various dictionaries, two objects diverge when they come apart in different directions. The conveyors 22, 23 of Vamvakas, however, never come apart in different directions as they are always parallel to one another throughout their entire length. It is therefore respectfully submitted that the conveyors 22, 23 could not be reasonably interpreted as being diverging.

Vamvakas does mention in column 3, lines 32-36, the following:

"In FIG. 3 the center rail 32 will begin to emerge and project above the level of the conveyor plates 22a and 23a, and concurrently these plates will begin to assume an outward divergent slope relative to each other." It would therefore appear from this statement that the conveyors 22, 23 of Vamvakas do indeed diverge. However, this statement is a misuse of the term divergent. The conveyor plates 22a, 23a, as can be easily seen in Figs. 4 and 5 of Vamvakas, are tilted and sloped outwardly. But to describe the tilted position of the conveyor plates 22a, 23a as being divergent is hardly accurate. The plates have simply been pivoted such that their top surfaces are disposed at different angles with respect to another yet the conveyors are parallel to one another along their length, which does not match the generally agreed upon definition of diverge or divergent as discussed above. It is therefore respectfully submitted that Vamvakas has misused the term "divergent" in describing the position or slope of the conveyor plates 22a, 23a.

In view of the above, it is respectfully submitted that Claim 14 distinguishes over Vamvakas. It is therefore believed that Claim 14 is allowable over Vamvakas. Claims 15-20 are also believed to be allowable over Vamvakas based on their dependence from Claim 14, as well as the distinguishing features recited therein.

Rejection of Claims 15-19 Under 35 U.S.C. §103:

Claims 15-19 were rejected under 35 U.S.C. §103 as being unpatentable over Vamvakas. In contrast to Vamvakas, Claim 15 recites, in part:

"at least one sheet metal surface structure;
said at least one sheet metal slide structure is disposed adjacent said point of divergence to permit separation of the first output stream of containers and the second output stream of containers; and"

Vamvakas does not disclose such a limitation, and therefore Claim 15 distinguishes over Vamvakas. Further, since Claim 14 is believed to be allowable, it is believed that Claim 15 is allowable based on its dependence on Claim 14. It is therefore believed that the Examiner's rejection to Claim 15 has been overcome. Claims 15-19 are therefore believed to be allowable based on their dependence from Claim 14, as well as the distinguishing features recited therein.

Recordation of the Substance of the Telephonic Interview:

In order to render this Amendment complete, the following is a recordation of the substance of the telephonic interview conducted with the Examiner on May 23, 2006:

- 1) No exhibits were shown, nor were any demonstrations conducted.
- 2) Primarily, Claims 13 and 14 were discussed.

3) Primarily, the prior art discussed was Vamvakas (US 3552537).

4) Applicant's representative essentially proposed to present arguments in the manner set forth in this Amendment.

5) Generally, Applicant's representative submitted, inter alia, that the prior art discussed did not teach nor suggest diverging conveyor structures, such as claimed in amended Claim 14.

6) Generally no other pertinent matters were discussed.

7) The general outcome of the interview was an indication from the Examiner that if the arguments presented during the interview were submitted in the present Amendment, such arguments would receive favorable consideration.

Art Made of Record:

The prior art made of record and not applied has been carefully reviewed, and it is submitted that it does not, either taken singly or in any reasonable combination with the other prior art of record, defeat the patentability of the present invention or render the present invention obvious. Further, Applicants are in agreement with the Examiner that the prior art made of record and not applied does not appear to be material to the patentability of the claims currently pending in this application.

Docket No.: NHL-HOL-63
Serial No.: 10/723,451
Customer No.: 00432

In view of the above, it is respectfully submitted that this application is in condition for allowance, and early action towards that end is respectfully requested.

Summary and Conclusion:

It is submitted that Applicants have provided a new and unique BEVERAGE BOTTLING PLANT FOR FILLING BEVERAGE BOTTLES OR OTHER BEVERAGE CONTAINERS WITH A LIQUID BEVERAGE FILLING MATERIAL AND AN ARRANGEMENT FOR DIVIDING AND SEPARATING OF A STREAM OF BEVERAGE BOTTLES OR OTHER BEVERAGE CONTAINERS. It is submitted that the claims, as amended, are fully distinguishable from the prior art. Therefore, it is requested that a Notice of Allowance be issued at an early date.

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Docket No.: NHL-HOL-63
Serial No.: 10/723,451
Customer No.: 00432

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Respectfully submitted,

A handwritten signature in cursive script, reading "Nils H. Ljungman". The signature is written in black ink and is positioned above the printed name and contact information.

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di·verge   **Pronunciation Key** (dī-vûrj', dī-)

v. **di·verged**, **di·verg·ing**, **di·verg·es**

v. *intr.*

1. To go or extend in different directions from a common point; branch out.
2. To differ, as in opinion or manner.
3. To depart from a set course or norm; deviate. See Synonyms at swerve.
4. Mathematics. To fail to approach a limit.

v. *tr.*

To cause (light rays, for example) to diverge; deflect.

[Latin dīvergere: Latin dī-, *dis-*, *apart*; see **dis-** + Latin vergere, *to bend*; see **wer-**² in Indo-European Roots.]

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diverge

v 1: move or draw apart; "The two paths diverge here" [ant: converge] 2: have no limits as a mathematical series [ant: converge] 3: extend in a different direction; "The lines start to diverge here"; "Their interests diverged" [ant: converge] 4: be at variance with; be out of line with [syn: deviate, vary, depart] [ant: conform]

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